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In the

Supreme Court of the United States

OCTOBER TERM 1964

No. 149

IN THE MATTER OF THE ADOPTION OF MOLLY PAGE ARMSTRONG, A MINOR

R. WRIGHT ARMSTRONG, JR.,
Petitioner,

v.

SALVATORE E. MANZO, et ux.,
Respondents.

PETITIONER'S BRIEF ON THE MERITS

On Writ of Certiorari to the Court of Civil Appeals for the Eighth Supreme Judicial District of Texas

EWELL LEE SMITH, JR.,
1100 Adolphus Tower,
Dallas, Texas.

EUGENE L. SMITH,
ED M. BROWN,
PRESTON A. WEATHERRED,
and
LYNE, BLANCHETTE, SMITH & SHELTON,
Of Counsel.

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Respondents.

Petitioner's Brief on the Merits

On Writ of Certiorari to the Court of Civil Appeals for the Eighth Supreme Judicial District of Texas

OPINION BELOW

The opinion by the Court of Civil Appeals for the Eighth Supreme Judicial District of Texas, affirming the judgment of the trial court granting the adoption of Molly Page Armstrong, a minor, by Salvatore E. Manzo et ux., Respondents, is reported at 371 S.W. 2d 407. (R. 225.)

JURISDICTION

The judgment of the Court of Civil Appeals for the Eighth Supreme Judicial District of Texas was entered on September 11, 1963. (R. 242.) The Supreme Court of Texas refused timely application for writ of error on January 15, 1964, and overruled Petitioner's motion for rehearing on March 4, 1964. (R. 243.) The petition for writ of certiorari was filed in this Court June 3, 1964, and was granted on October 12, 1964. (R. 245.)

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(3) (1949), in that the Texas courts in upholding the validity of and construing the Texas statute, article 46a(6), Tex. Rev. Civ. Stat. Ann. (1959), have held that there is no constitutional requirement that notice of adoption proceedings be given the parent of the child if the consent of the parent is not required, and because Petitioner was deprived of certain rights without due process of law, contrary to the Constitution of the United States.

QUESTIONS PRESENTED

1. Whether due process of law requires that notice of adoption proceedings be given the father of the child to be adopted, when the father's residence is within the state and known to the adopting parents, he is amenable to service of process, and there has been no previous judicial termination of his parental rights?

2. Whether a state statute which, as construed by the state courts, does not require that notice of adoption pro-

ceedings be given a parent who has failed to render support for two years commensurate with his "financial ability," is repugnant to due process of law?

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

Article 46a (6), Vernon's Tex. Rev. Civ. Stat. Ann. (1959), Tex. Sess. Laws 1951, c. 249, § 2, as amended, 1 Tex. Rev. Civ. Stat. Ann. 22 (1962 Supp.), Tex. Sess. Laws 1961 c. 344, § 1, provides[1]:

> *"Except as otherwise provided in this Section, no adoption shall be permitted except with the written consent of the living parents of the child; provided, however, that if a living parent or parents shall voluntarily abandon and desert a child sought to be adopted, for a period of two (2) years, and shall have left such child to the care, custody, control and management of other persons, or if such parent or parents shall have not contributed substantially to the support of such child during such period of two (2) years commensurate with his financial ability, then, in either event, it shall not be necessary to obtain the written consent of the living parent or parents in such default, and in such cases adoption shall be permitted on the written consent of the Judge of the Juvenile Court of the county of such child's residence; or if there be no Juvenile Court, then on the written consent of the Judge of the County Court of the county of such child's residence.*
>
> "In a case of a child fourteen (14) years of age or over, the consent of such child also shall be required and must be given in writing in the presence of the court.
>
> "Consent shall not be required of parents whose parental rights have been terminated by order of the

[1] Relevant portions are italicized.

Juvenile Court or other Court of competent jurisdiction; provided, however, that in such cases adoption shall be permitted only upon the written order of the court terminating such parental rights.[2]

"In case of a child not born in lawful wedlock the consent of the father shall not be necessary, and the consent of the natural mother, regardless of her age, shall suffice.

"In the case of a child placed by its parents in a child placing agency or institution licensed by the State Department of Public Welfare to place children for adoption, it shall be sufficient for the living parents to consent in writing that such agency or institution place such child for adoption, and no further consent shall be required of such living parent.

"In the case of any consent by the natural parents as herein required to the adoption of a minor child, regardless of whether or not said child was born in lawful wedlock, such consent shall be sufficient if given in writing after the birth of said child and duly acknowledged, giving the name, date and place of birth of said child, and shall agree to permanently surrender the care, custody, and parental authority of and over said child, and consent to its adoption upon judgment of any Court of competent jurisdiction without the necessity of reciting therein the names of the parents by adoption."

Section 1 of the Fourteenth Amendment to the Constitution of the United States provides:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of

[2] This paragraph was amended in 1963, 1 Tex. Rev. Civ. Stat. Ann. (1964 Supp.), Tex. Sess. Laws 1963 c. 370, § 1 by adding:

"* * * Such written order of the court giving consent for the adoption of such child shall be confidential and shall be filed with and made a part of the confidential records in the adoption proceedings, and shall be open for inspection only under such conditions and through such procedures as are prescribed by law for the inspection of the confidential adoption records in the court."

The amendment does not affect this case.

the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

STATEMENT OF THE CASE.

Summary. This case is an appeal from a Texas proceeding in which Respondent, Salvatore E. Manzo, adopted the minor daughter of Petitioner, R. Wright Armstrong. Neither formal nor informal notice of the pendency of the adoption proceeding was given Petitioner. After the decree of adoption, Respondent sent Petitioner's father a letter, bearing the same date as the decree, in which he stated that he had adopted the child. Petitioner, so informed, then instituted post-trial proceedings seeking to declare the adoption a nullity, contending, *inter alia*, that want of notice invalidated the adoption. The Writ of Certiorari which this Court has granted is the culmination of those proceedings in the Texas Courts.

Petitioner, R. Wright Armstrong, Jr., and Alice Flournoy Davis Manzo (wife of Respondent Salvatore E. Manzo) were divorced by decree of the 96th District Court of Tarrant County (Ft. Worth) on November 6, 1959. (R. 28-29, 191.) The divorce decree awarded custody of the minor child of the parties, Molly Page Armstrong, to the mother, and granted visiting privileges to Petitioner; it also required Petitioner to pay child support "of $50.00 per month, beginning November 16, 1959, and continuing thereafter on the 16th day of each succeeding month until further order of this Court * * *". (R. 28-29, 191.) It is undisputed that

Petitioner made four of these payments in 1959-60 (R. 30, 191), and occasionally made other small contributions for the benefit of the child. (R. 48-49, 79, 81-82, 89, 126-127.)

Respondents were married in El Paso, Texas, on March 11, 1960. On March 12, 1962, Manzo, joined by his wife, filed his petition for leave to adopt Molly Page Armstrong (then five years of age) in the 120th District Court of El Paso County, Texas. (R. 1-3.) On April 27, 1962, the trial court granted the adoption. The judgment recited:

> "Written consent of the natural father, R. W. Armstrong, Jr., to the adoption herein sought is not necessary upon grounds that the said father has not contributed to the support of said minor child commensurate with his ability for a period in excess of two (2) years, and the Judge of a Juvenile Court of El Paso County, Texas, to-wit: Judge David E. Mulcahy, Judge of the 41st District Court, has consented in writing to said Petition for Adoption under provisions of Section 6, Article 46a, Texas Civil Statutes." (R. 9-10).

After the adoption had been granted, Petitioner's father learned of the adoption by letter from Respondent Manzo, (R. 43-44) and then advised Petitioner of this fact. (R. 45, 85.) This was the first and only notice given Petitioner of the adoption proceeding. (R. 84-85.) A motion for new trial was immediately filed in the court which rendered the judgment of adoption. (R. 11-12.) The motion for new trial, original and as amended, (R. 12-15) requested the Court to set aside its decree of adoption, because of the lack of notice to Petitioner. (R. 13.) In the hearing before the trial court on his motion, Petitioner presented evidence showing that he was physically and mentally ill and in-

capable of making the support payments, (R. 41-42, 57, 68-76, 78, 102, 139) that the child had visited with Petitioner since the divorce, (R. 35, 81-82, 84, 128) and that Petitioner and Respondents corresponded regularly. (R. 23-25, 43-44, 47-53, 54-55, 63-65.) The trial court nevertheless overruled Petitioner's motion and confirmed the adoption judgment, filing findings of fact. (R. 185-193.)

While the appeal was pending, Respondent Flournoy Manzo filed a contempt motion in the Fort Worth District Court which granted her divorce from Petitioner. By this motion she sought to compel Petitioner to pay the child support payments of $1,550.00 which were then in arrears. (R. 213-220.) Petitioner tendered this amount into Court, after which an order was entered refusing to find him in contempt, and finding that he had contributed to the support of the child commensurate with his ability since the divorce. (R. 223-224.) Petitioner filed motions in the Court of Civil Appeals to abate the adoption proceedings on the ground that the period of non-support covered in the contempt proceedings was the same period urged as statutory basis for dispensing with his consent to the adoption. These motions were overruled by the Court of Civil Appeals. (R. 241.)

The Court of Civil Appeals affirmed the judgment granting the adoption, holding that when written consent of a parent to the adoption of his child is not required under the Texas statute, notice of the pending adoption proceedings is unnecessary if a later hearing is afforded the non-consenting parent.

ARGUMENT

A. Petitioner was deprived of due process of law by the failure of the Trial Court to give notice of the pending adoption of his child.

B. The Texas adoption statute unconstitutionally dispenses with notice to parents of pending adoption proceedings involving their children.

"An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314.

In many respects, this case is unusual, but in one, it is unique. Insofar as Petitioner can determine, this is the first instance in this Court in which a party (Respondent) must contend that no notice whatsoever is required by due process. Adequacy of notice has long been a preoccupation of courts, but seldom, if ever, have questions of complete absence of notice been a matter of concern. On balance, there is no rationale by which the deficiency of Texas adoption practices can be sustained.

1. *Due Process of Law Requires Notice of Judicial Proceedings to Parties Whose Personal or Property Rights Will Be Affected by Those Proceedings.*

If there is a basic tenet of due process, it is this: any person who is to have placed in jeopardy substantial legal

rights must be afforded fair opportunity to appear and answer the arguments of those who would deprive him of those rights. With this proposition there can be no dispute. As Mr. Justice Brown put it, "That a man is entitled to some notice before he can be deprived of his liberty or property is an axiom of the law to which no citation of authority would give additional weight * * *" *Roller v. Holly*, 176 U.S. 398, 409.

Cases are legion in which this principle has been applied by this Court. The outlines of procedural due process are plain. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, made clear that the interest of a state must yield to individual interests within the protection of the Fourteenth Amendment. In that case it was contended that notice by publication of a common trustee's accounting satisfied the requirements of procedural due process. Rejecting artificial distinctions made among proceedings "in personam," "in rem," and "quasi in rem," Justice Jackson quoted with approval the dictum of *Grannis v. Ordean*, 234 U.S. 385, that the fundamental requisite of due process of law is the opportunity to be heard.

These requirements are not limited to adjudication of property rights. Of equal importance to Petitioner is *May v. Anderson*, 345 U.S. 528, in which this Court held that a judgment involving custody rights was not entitled to full faith and credit if the state court rendering the judgment lacked personal jurisdiction over one of the parents. A state must have jurisdiction in personam of the spouse whose rights are to be severed. Justice Jackson, in dissenting, took

issue with the majority views of personal jurisdiction, but he emphasized the importance of notice and the opportunity to be heard. 345 U.S. at 541. The notable element of the *May* case is its emphasis on parental rights to children as a legal right capable of judicial protection, since in adoption, parental rights are rather uniformly subjugated to the amorphous "welfare of the child". *Trotter v. Pollan*, 311 S.W. 2d 723 (Tex. Civ. App.), err. ref. n.r.e., 158 Tex. 516, 313 S.W. 2d 603 (1958).

Regardless of a court's characterization of a proceeding as involving "personal" rights or "property" rights, the Fourteenth Amendment applies, *Mullane v. Central Hanover Bank & Trust Co.*, supra, and when a parent's rights in a child are severed by adoption, both personal and property rights are terminated (including in the instant case, Petitioner's rights of visitation with his child which he enjoyed under the divorce decree). The Texas adoption statute, Tex. Rev. Civ. Stat. Ann. Art. 46a(9), provides:

> "Sec. 9. When a minor child is adopted in accordance with the provisions of this Article, all legal relationship and all rights and duties between such child and its natural parents shall cease and determine, and such child shall thereafter be deemed and held to be for every purpose the child of its parent or parents by adoption as fully as though naturally born to them in lawful wedlock. Said child shall be entitled to proper education, support, maintenance, nurture and care from said parent or parents by adoption, and said parent or parents by adoption shall be entitled to the services, wages, control, custody and company of said adopted child, all as if said child were their own natural child. For purposes of inheritance under the laws of descent and distribution

> such adopted child shall be regarded as the child of the parent or parents by adoption, such adopted child and its descendents inheriting from and through the parent or parents by adoption and their kin the same as if such child were the natural legitimate child of such parent or parents by adoption, and such parent or parents by adoption and their kin inheriting from and through such adopted child the same as if such child were the natural legitimate child of such parent or parents by adoption. The natural parent or parents of such child and their kin shall not inherit from or through said child, but said child shall inherit from and through its natural parent or parents. * * *"

Where these "precious" rights (as they were described in *May*) of care, custody, control, inheritance and support are involved, can it be said with reason that termination of the tangible and intangible incidents of the relationship can be without notice? The *Mullane* case laid down stringent requirements of notice which it cannot be gainsaid should apply to adoption proceedings. Virtually all other states require that a parent be notified of the pending adoption of a child, whether his consent to that adoption is required or not. (See Appendix.) The requirement of notice in other states has rested on statutory requirements and on due process requirements. Three leading cases have stated that to deprive a parent of a child through adoption proceedings is a denial of due process if without notice to the parent. To adopt a contrary view would be to recognize that the courts have arbitrary authority to forfeit the rights of the parent to his minor child, without giving him an opportunity to be heard in his own behalf and his child's behalf. *Fielding v. Highsmith*, 152 Fla. 837, 13 So. 2d 208 (1943); *Child Sav.*

Inst. v. Knobel, 327 Mo. 609, 37 S.W. 2d 920 (1931); *Nelson v. Ecklund*, 68 N.D. 724, 283 N. W. 273 (1938); Annot., *Necessity of Notice to Parent or Legal Custodian Before Adoption of Child*, 24 A.L.R. 416 (1923) supp'd 76 A.L.R. 1077 (1932). See also *Carpenter v. Forshee*, 103 Ga. App. 758, 120 S.E. 2d 786 (1961).

Commentators upon this aspect of family law have declared that personal service of process is a requisite to the termination of the parent-child relationship. Frazer, *Jurisdiction by Necessity—An Analysis of the Mullane Case*, 100 U. Pa. L. Rev. 305, 317-19 (1951); Hazard, *May v. Anderson: Preamble to Family Law Chaos*, 45 Va. L. Rev. 379, 395-400 (1959).

These rules apply equally to state statutes in which the provisions for notice do not give the pleader the opportunity to appear and be heard. This Court, in *Walker v. City of Hutchinson*, 352 U.S. 112, 115 held that a statute which provides for a hearing but which did not provide for notice "reasonably calculated to inform the parties of proceedings which may directly and adversely affect their legally protected interest" was unconstitutional. In *Milliken v. Meyer*, 311 U.S. 457, adequacy of notice was said to be dependent on whether the form of service is reasonably calculated to give actual notice of proceedings and an opportunity to be heard. Only by so doing can the traditional notions of fair play and substantial justice in due process be satisfied. *McDonald v. Mabee*, 243 U.S. 90.

It is futile to continue the listing of cases in which this Court has disposed of similar problems. The principles in-

volved and their applicability to all legal proceedings is unquestioned.

2. *The Texas Adoption Statute is Unconstitutional in Failing to Require Notice to a Parent of Adoption Proceedings Involving his Child.*

Under Article 46a(6), supra, the Texas courts have held that notice of adoption proceedings need not be given a parent when that parent's consent to the adoption is not required. *Trotter v. Pollan*, 311 S.W. 2d 723 (Tex. Civ. App. error ref. n.r.e., 158 Tex. 516, 313 S.W. 2d 603 (1958); *Lee v. Purvin*, 285 S.W. 2d 405 (Tex. Civ. App. 1955) error ref. n.r.e.; *Pearce v. Harris*, 134 S.W. 2d 859 (Tex. Civ. App. 1939). Section 6 lists several exceptions to the requirement of consent to an adoption proceeding by a parent. Petitioner is concerned with that class which eliminates the requirement of consent when the parent of the child has not contributed substantially to the support of the child commensurate with his financial ability for a period of two years. Without articulating a basis for such statutory exception, the Texas courts have rationalized the elimination of notice by saying that the availability of a later hearing is sufficient protection to a parent to satisfy due process. *Trotter v. Pollan*, supra; *Lee v. Purvin*, supra. It was upon this ground that the Court of Civil Appeals in this case held that the Petitioner's rights were not prejudiced by the failure to give notice.

If Petitioner's rights were protected in this case, then due process is ephemeral indeed. Texas law apparently is: regardless of the circumstances, a natural parent may be de-

prived of all legal relationship with his child if the court decides in an *ex parte* hearing without notice to such parent that he has forfeited these rights by failure to contribute substantially to the support of the child commensurate with his financial ability for a period of two years, so long as at an indeterminate point in the future this parent is given the opportunity to review the proceeding. This solicitude for the welfare of children which the courts and legislature presumptively have would be more meaningful if it gave attention to the effect of this curious doctrine. It would be as well to let a court determine any number of legal relationships without notice on the pretext that the interest of the public was thereby subserved. It would be no less reasonable to confine a criminal in prison without notice on the ground that his welfare is thereby served.

More personal to Petitioner, however, is the burden imposed upon him by this rule, which vastly changes as a practical matter after the rendition of the adoption decree. Once the adoption decree is granted without notice to the parent, his rights and obligations to the child are at an end. He is then faced with convincing the trial judge that he was wrong, in an effort to set aside the final decree of adoption and reinstate his parental rights. There are apparently three procedural devices available to a parent confronted with this dilemma.

In a case such as this, in which the father learns of the adoption within ten days of the decree, he may apply to the rendering court for a new trial. Tex. R. Civ. P., Rule

329b (1961). In such a hearing he apparently is faced with the burden of proving error in the granting of the adoption, based on proof of welfare of the child. In re *Adoption of Armstrong*, 371 S.W. 2d 407 (Tex. Civ. App. 1963) err. ref. n.r.e. If he is unable to sustain this burden then it is incumbent upon him on appeal to show an abuse of discretion on the part of the trial judge in granting the adoption. *Harris v. Tucker*, 245 S.W. 2d 992 (Tex. Civ. App. 1952) err. ref, n.r.e. It would seem obvious that the judge who granted the decree of adoption is not likely to admit his error, and that absent this admission, an appellate court will not set the decree aside on the basis of abuse of discretion except in rare instances.

Should the parent not be as fortunate as Petitioner was in this case to learn of the adoption of his child, his "later hearing" becomes even more an illusory remedy. The parent may bring a habeas corpus proceeding attacking the validity of the judgment in its entirety; then his proof can go first to the basis of the original court's jurisdiction. Thus the parent must bear the burden of proving the nonexistence of the conditions which furnished the basis for dispensing with his consent in the original proceeding. *Trotter v. Pollan*, supra. And if this is not enough, he must also establish anew the best interest of the child with regard to custody. *Ibid.* Conceivably the litigation of this fact could be several years after the original adoption, at a time when the child had lived with his new "parents" for a length of time which

would make it to the best interest of the child to remain in his new situation.

The last remedy available to the parent deprived of his child by an adoption proceeding of which he had no notice is by a bill of review. Again the Texas courts are generous. The full hearing granted under this procedure allows the parent to obtain proof on the issue of whether sufficient facts existed to authorize the original decree of adoption. *Lee v. Purvin*, 285 S.W. 2d 405 (Tex. Civ. App. 1955) err. ref. n.r.e. Thus for purposes of subsequent attack by bill of review, a parent must bear a burden similar to that imposed by the substantial evidence rule in judicial review of administrative actions.

It is abundantly clear that Texas' refusal to require notice violates due process of law.[4] The essence of notice is giving a party information that a matter affecting his interest is pending and letting him "choose for himself whether to appear or default, acquiesce or contest." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314. Petitioner and other parents in like situations, is deprived under this Texas practice of requiring proof that he has not rendered support for two years commensurate with his financial ability, and proof of the best interest of the child.

[4] It cannot fairly be contended that notice is not required because an adoption is an *in rem* or *quasi in rem* proceeding. Distinction in the form of notice based upon these hypertechnicalities were rejected in *Mullane*, 339 U.S. 312-13. Further, the *May* case establishes that the portion of this decree dealing with custody is not entitled to full faith and credit under Article IV, § 1 of the Constitution. *May v. Anderson*, 345 U.S. 528; cf. *Estin v. Estin*, 334 U.S. 541.

The due process requirement of notice is a commitment to the adversary process, by which contentions are tested surely and effectively. But notice requires a fair and reasonable opportunity to be heard, *Roller v. Holly*, 176 U.S. 398, and the opportunity to be heard is the foundation of our system. This right can only mean that the right to be heard must be at the proceeding which alters rights, not later, when those rights have changed.

CONCLUSION

For the foregoing reasons, it is respectfully requested that this Honorable Court reverse the judgment of the Court of Civil Appeals for the Eighth Supreme Judicial District of Texas and vacate the decree of adoption granted by the 120th District Court of Texas.

By: Ewell Lee Smith Jr.
EWELL LEE SMITH, JR.,
1100 Adolphus Tower,
Dallas, Texas.

EUGENE L. SMITH,
ED M. BROWN,
PRESTON A. WEATHERRED,
and
LYNE, BLANCHETTE, SMITH &
SHELTON,
EUGENE L. SMITH,
Of Counsel.

CERTIFICATE OF SERVICE

This is to certify that on the 21st day of December, A. D., 1964, a true and correct copy of the foregoing Brief on the Merits was served upon counsel for Respondents, Mr. W. O. Craft, 110 North Stanton Street, El Paso, Texas, Eugene T. Edwards, Bassett Tower, El Paso, Texas, and Mr. William Duncan, 1500 First National Building, El Paso, Texas, by depositing copies thereof in the United States mail, Certified Return Receipt Requested, addressed to each of them at their foregoing last known addresses.

Ewell Lee Smith Jr.

EWELL LEE SMITH, JR.

APPENDIX

Notice Provisions in Adoption Statutes

		Notice Required	Silent	No Notice Required
Alaska	*Alaska Stat.* sec. 20.10.040 (1962). *Hammer v. Hammer*, 16 Alaska 203 (1956).	X		
Alabama	*Ala. Code* tit. 27, sec. 3 (1958). ". . . just and practicable . . ." notice.	X		
Arizona	*Ariz. Rev. Stats. Ann.* secs. 8-104, 8-105 (1956). *In re Gallegos*, 21 Ariz. 250, 187 P. 573 (1920).	X		
Arkansas				
California	*Cal. Civil Code Ann.* sec. 224. *Adoption of Burton*, 147 C.A. 2d 125, 305 P. 2d 185 (1956); Note, *Adoption: Validity of Decree Awarded Without Notice to Natural Parents*, 31 Calif. L. Rev. 325 (1943).	X		
Colorado	*Colo. Rev. Stat. Ann.* sec. 4-1-8 (1953). ". . . to any interested person or agency . . ."	X		
Connecticut	*Conn. Gen. Stats.* sec. 45-61 (1958). Written consent required in all cases.	X		
Delaware	*Del. Code Ann.* tit. 13, sec. 908 (1953). Either consent or prior judicial termination of parental rights.	X		
D.C.	*D.C. Code Ann.* secs. 16-304, 16-306 (Supp. III 1961).	X		
Florida	*Gen. Laws of Fla.* ch. 63-211 (1963).	X		
Georgia	*Ga. Code Ann.* secs. 74-403, 74-408 (1964). These 2 secs. "in pari materia"	X		

		Notice Required	Silent	No Notice Required
	require notice to abandoning parent even though no consent is req. Stat. itself only provides for notice to those whose consent is required. *Carpenter v. Forshee*, 103 Ga. App. 758, 120 S.E. 2d 786 (1961).			
Hawaii	*Hawaii Rev. Laws* sec. 331-2 (1955).	X		
Idaho	*Idaho Code Ann.* sec. 16-1504 (1948). Abandonment severs parental rights. *Finn v. Rees*, 65 Idaho 181, 141 P. 2d 976 (1943). Cf. *Smith v. Smith*, 67 Idaho 349, 180 P. 2d 853 (1947) (dissent also).		X	
Illinois	*Ill. Ann. Stat.* ch. 9.1, secs. 5, 7 (Smith-Hurd 1959).	X		
Indiana	*Ind. Ann. Stat.* sec. 3-120 (1946). ". . . such court *may* . . ." notify.	X		
Iowa	*Iowa Code Ann.* sec. 600.4 (1947). "... such notice ... as the court shall prescribe . . ." Uhlenhopp, *Adoption in Iowa*, 40 Iowa L. Rev. 228 (1955).	X		
Kansas	*Kan. Gen. Stat. Ann.* sec. 59-2278 (Supp. 1961).	X		
Kentucky	*Ky. Rev. Stat. secs.* 199.480, 199.515 (1960).	X		
La.	*La. Rev. Stat. Ann.* sec. 9:425 (1950).	X		
Maine	*Me. Rev. Stat. Ann.* ch. 158, sec. 37 (1954).	X		
Maryland	*Md. Rules of Proc.* Rule D74 (1963). Show cause order served on parents.	X		

		Notice Required	Silent	No Notice Required
Mass.	*Mass. Ann. Laws* ch. 210, sec. 4 (1955). *Humphrey, appellant*, 137 Mass. 84 (1883).	X		
Michigan	*Mich. Stat. Ann.* sec. 27.3178 (542) (1962). Notice is required to non-consenting parent. *In re Ives*, 314 Mich. 690, 23 N.W. 2d 131 (1946) (construing pre-1945 law which was substantially the same).		X	
Minnesota	*Minn. Stat. Ann.* sec. 259.26 (1959).	X		
Miss.	*Miss. Code Ann.* sec. 1269-03 (1956). *Britt v. Allred*, 199 Miss. 786, 25 So. 2d 711 (1946).	X		
Missouri	*Mo. Ann. Stat.* sec. 453.040 (1952). Notice required where consent not necessary. *Child Saving Institute v. Knobel*, 327 Mo. 609, 37 S.W. 2d 920 (1931).		X	
Montana	*Mont. Rev. Codes Ann.* sec. 61-211 (Supp. 1963).			X
Nebraska	*Neb. Rev. Stat.* sec. 43-103 (1960) (discretion of judge).	X		
Nevada	*Nev. Rev. Stat.* sec. 127.040 (1963). Consent required except where parent dead or prior ct. termination.		X	
N.H.	*N.H. Rev. Stat. Ann.* sec. 461:4 (1955).	X		
N.J.	*N. J. Stat. Ann.* secs. 9:3-17 to 9:3-35. No consent required and notice is mentioned only in connection with those having custody.	X		

		Notice Required	Silent	No Notice Required
N.Y.	*N.Y. Dom. Rel. Law* sec. 111 (Supp. 1964). "... may be required if the judge ... so orders." Held in *In re Davison's Adoption*, 44 N.Y. S. 2d 763 (1943), that notice is required to preclude a collateral attack by the parent.	X		
N.C.	*N.C. Gen. Stat.* sec. 48-5 (Supp. 1963).	X		
N. Dak.	*N.D. Cent. Code* sec. 14-11-10 (Supp. 1963).	X		
Ohio	*Ohio Rev. Code Ann.* sec. 3107.06 (Supp. 1964).	X		
Okla.	*Okla. Stat. Ann.* tit. 10, sec. 60.8 (Supp. 1964).	X		
Oregon	*Ore. Rev. Stat.* secs. 109.324, 109.330 (Supp. 1961).	X		
Pa.	*Pa. Stat. Ann.* tit. 1, sec. 3 (1963).	X		
R.I.	*R.I. Pub. Laws* ch. 106, secs. 15-7-7, 15-7-8 (1962).	X		
S.C.	*S.C. Code Ann.* sec. 10-2587.7 (Supp. 1964).	X		
S. Dak.	*S.D. Code* sec. 14.0406 (Supp. 1960). Only requires appearance of those whose consent is necessary; no consent after 1 yr. abandonment.		X	
Tenn.	*Tenn. Code Ann.* secs. 36-108, 36-110 (Supp. 1964).	X		
Utah	*Utah Code Ann.* sec. 78-30-5 (1953).	X		
Vermont	*Vt. Stat. Ann.* tit. 15, sec. 441 (1958).	X		
Virginia	*Va. Code Ann.* sec. 63-351 (Supp. 1964).	X		

		Notice Required	Silent	No Notice Required
Wash.	*Wash. Rev. Code Ann.* sec. 26.32.080 (1951).	X		
W. Va.	*W. Va. Code Ann.* sec. 4755 (1961)		X	
Wis.	*Wis. Stat. Ann.* sec. 48.84 (1957). *Lacher v. Venus*, interpreting old stat. and holding that notice is essential even in absence of statutory requirement. 177 Wis. 558, 188 N.W. 613 (1922).		X	
Wyo.	*Wyo. Stat. Ann.* sec. 1-710 (1957).	X		